

### **REMARKS**

After entry of this Amendment claims 1-11 are pending in this application. For the following reasons, it is respectfully submitted that Applicant's invention as set forth in the claims includes features which are not anticipated or rendered obvious by the cited references, taken singly or in combination. Reconsideration of the application as amended is requested.

In the Final Office Action dated March 21, 2007, claims 1-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over DE1183214 in combination with EP593876. The Examiner asserts that although DE '214 does not disclose the water nozzle in the dishwasher spaced from the disk, it would have been obvious to one skilled in the art to re-arrange the position of the disk and nozzle to be spaced apart as an obvious design choice. The Examiner also asserts that although DE '214 is also devoid of using a second disk and a second water nozzle, it would have been obvious to use a second water nozzle as taught by EP '876. Applicants believe that the proposed combination constitutes impermissible and excessive hindsight-based reconstruction of the DE '214 device and does not constitute a valid basis for rejections under § 103.

Claim 1, which claims 2 and 3 include by dependency, recites a disk mounted on the top wall of the dishwasher for rotation about a vertical axis and having a plurality of vanes. A water nozzle is mounted on one of the back wall, side walls, or top walls to direct a water jet horizontally onto the vanes of the disk to rotate the disk and thereby redirect the water radially for distribution in the washing chamber. The disk and the nozzle positioned in the washing chamber are spaced apart from each other. Because the water nozzle is spaced from the disk and the water jet is directed horizontally toward the disk, the water jet is directed inward toward the center of the disk as shown in Figs. 2-4. When the water jet contacts the vanes, the disk is rotated and the water jet direction is reversed such that the water is directed outward from the center of the disk. Claim 4, which claims 5-7 include by dependency, also recites a rotatable disk and a water nozzle adapted to direct a water jet in a direction transverse to an axis of rotation of the disk so as to impart rotation to the disk and thereby redirect the water jet in a radial spray pattern in the dishwasher. The water nozzle is spaced from the disk. Likewise, because the water nozzle is spaced from the disk, the water jet is directed such that the water moves inward toward the axis of rotation. The disk is rotated by the water jet and the water is moved in the reverse direction outward from the axis of rotation.

DE '214 discloses a water distribution configuration, wherein a water nozzle 8 is positioned in the center of a rotating disk 10 having vanes 18. Water is directed vertically from the top of the dishwasher in the center of the disk as shown in Fig. 1. The cross-shaped nozzle redirects the water into four horizontal water jets outward from the center of the disk and the axis of rotation. See Fig. 2. The water jets rotate the disk and the water jets are guided outward from the disk. The disk and water nozzle are not spaced apart. The configuration disclosed in DE '214 cannot be modified simply as a design choice such that the water nozzle and disk are spaced apart. To simply space the two components apart would result in a change in the mode of operation of the device disclosed in DE '214. The cross-shaped nozzle opening would no longer function in the manner intended. The motion of the water jet would also be modified, such that it would no longer be directed from the center of the disk outward. Therefore, it would not be an obvious design choice to one skilled in the art to space the water nozzle and the disk apart as recited in claims 1 and 4, from which claims 2-3 and 5-7 depend.

EP '876 is relevant only for its disclosure of a dishwasher having multiple spray means. It is resubmitted that DE'214 is devoid of a water nozzle and disk spaced apart as recited in claims 1 and 4, from which claims 2-3 and 5-7 depend. The addition of the EP '876 reference does not overcome this deficiency. Applicant respectfully submits that the combination of the prior art references does not suggest or render obvious the present invention in claims 1-7. Reconsideration is respectfully requested.

Entry of this after-final amendment under the provisions of 37 C.F.R. §1.116 is submitted to place the application in better form for appeal by simplifying the issues for appeal and does not raise new issues that would require further consideration and/or search. This amendment also does not raise the issue of new matter, since the claims have not been amended and does not present additional claims.

It is respectfully submitted that this Amendment traverses and overcomes all of the Examiner's objections and rejections to the application and places the application in

suitable condition for allowance; notice of which is respectfully requested. Reconsideration of the application is requested.

Respectfully submitted,

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/Deborah A. Tomaszewski/  
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Date: May 21, 2007

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